

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KEVIN KROHN,

Plaintiff(s),

vs.

AMERICAN AUTOMOBILE ASSOC. OF N.
 CAL. NEVADA & UTAH,

Defendant(s).

Case No. 2:12-cv-02099-JCM-NJK

ORDER DENYING WITHOUT
 PREJUDICE MOTION TO DISMISS

(Docket No. 29)


Pending before the Court is Defendant's motion to dismiss brought pursuant to Federal Rules of Civil Procedure 37(d) and 41(b). Docket No. 29. To date, no response has been filed in opposition. The Court has reviewed the docket and it appears that the motion was not served on Plaintiff's counsel through the CM/ECF system. *See* Docket No. 29 (Notice of Electronic Filing, showing service was made on Nathan Reinmiller and Nathan Severson, but not on Cory Hilton).¹ Moreover, motions brought under Federal Rule of Civil Procedure 37(d) require a certification that the movant has in good faith conferred or attempted to confer regarding the motion. *See, e.g.,* Federal Rule of Civil Procedure 37(d)(1)(B). Although the moving papers indicate that Defendant's counsel attempted to contact Plaintiff's counsel "to discuss this case," *see* Mansanas Decl. ¶ 19, it is

¹ The Court has contacted the Clerk's Office to ensure that the CM/ECF system notifies Mr. Hilton of future filings.

1 not clear from the papers whether sufficient attempts were made to confer on the motion prior to its
2 filing. For these reasons, the motion to dismiss is hereby **DENIED** without prejudice.

3 **IT IS SO ORDERED.**

4 DATED: September 3, 2013

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7 NANCY J. KOPPE
8 United States Magistrate Judge
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